

M. G. A.

FIRST

REPORT

ON THE

STATE OF THE REPRESENTATION

OF THE

PEOPLE OF UPPER CANADA

IN THE

LEGISLATURE OF THAT PROVINCE.

*First Edition, of One Thousand Copies, printed for gratuitous
distribution among the Freeholders.*

MARCH, 1831.

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1831.

HOUSE OF ASSEMBLY.

FRIDAY, JANUARY 23rd, 1831.

MR. MACKENZIE moved the following resolution :

Resolved, that a select committee be appointed to enquire into the state of the representation of the people, in this House, with power to send for persons and papers and records, and leave to report by bill, address, or otherwise.

On which the House divided :

Yea 23.—Nays 11.

The resolution was adopted, by a majority of 17.

TUESDAY, January 25th, 1831.

MR. MACKENZIE moved, that the select committee to enquire into the state of the representation of the people of this province, in this House, do consist of Messrs. *Shaver, Howard, Buell and Lyons*.

MR. JOHN WILLSON moved, in amendment, that on Monday next, the House do resolve itself into a committee of the whole to take into consideration the state of the representation of the people of this province in this House.

On which the House divided :

Yea 19.—Nays 20.

The amendment was negatived by a majority of one.

MR. ATTORNEY GENERAL moved, in amendment, that the select committee do consist of Messrs. *Burwell, Morris, McMartin and Lyons*.

On which the House divided :

Yea 19.—Nays 21.

The amendment was negatived by a majority of Two.

MR. SHERIFF JARVIS moved, in amendment, that it be resolved that this House do now proceed to ballot for a committee to take into consideration the representation of this province.

On which the House divided :

Yea 13.—Nays 26.

The original question was then put and carried.

ORDERED, that Messrs. *Mackenzie, Shaver, Buell, Howard and Lyons* do compose the said committee.

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First Report on the State of the Representation of the People of Upper Canada in the House of Assembly.

MEMBERS OF COMMITTEE.

MESSRS. LYONS, BUELL, SHAVER, HOWARD, AND
MACKENZIE.

To the Honorable the House of Assembly.

The Select Committee appointed to enquire into the state of the representation of the people of this Province, in the Provincial Legislature, and to report their observations to the House thereon, with reference to the expediency of making any alteration in the Laws now in force relating thereto, have, pursuant to the order of the House, enquired accordingly; and have agreed to the following as their first report.

Your Committee have been unable to give that full consideration to this important subject which it merited, on account of the close attendance required to the business of the House, in the House. Opportunity has not been afforded to examine Witnesses, arrange evidence, and consider the Bills necessary to be reported for remedy of the many evils attending an imperfect and unequal state of the representation; they have, therefore, agreed to report such facts as they deemed worthy the consideration of the House; intending, if it should be the pleasure of the House, to resume their enquiry in the ensuing Session of the Legislature.

Your Committee are of opinion that the imperfect state of the representation in the House of Assembly is and has been the cause of much evil to the Community; and that if a remedy is not speedily applied, the people will be involved in many of those difficulties from which older and wealthier communities are in vain striving to be relieved. Consequences of an imperfect representation of the people in governments.

An imperfect state of the representation, places too great power generally in the hands of one class of the Community—carries excessive taxation to a point beyond which it is found impossible to proceed—fosters useless and ruinous schemes and projects in which the true interests of the people are never consulted; authorises enormous grants of the public money in the shape

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Causes which prevented the com. from reporting in full during the session.

Consequences of an imperfect representation of the people in governments.

First Report. of pensions, places, sinecures and reversions—bestows the revenue on persons who never deserved remuneration—encourages and sanctions a general system of extravagance in every department of Government, such as is never witnessed in a well ordered state—introduces that secrecy doubt and mystery into the ordinary affairs of a country which is so injurious to the interests of the whole community—promotes to offices of power and trust unworthy and improper candidates, and passes over unnoticed the meritorious and deserving—despises the poor and the industrious settler—considers aristocratical connexion as always superior to talent and good character, and sacrifices to private interest and advantage “the public good.” Such are the usual consequences of an unequal and imperfect state of the representation in a representative system of Government, in which Representative Houses become powerful engines for increasing and consolidating the strength of an Aristocracy of Wealth, at the cost of the community.

Province of Quebec divided.—Constitution of Upper Canada. The Province of Quebec was divided into two Colonies in 1791. By an Act of the United Kingdom Parliament passed in that year, commonly called the Constitutional Act, Upper Canada became a separate Government, and was authorized “during the continuance of” that “Act,” to make laws for its peace and welfare, by and with the consent of a Legislative Council and House of Assembly, the former of which was to be chosen by His Majesty, its members holding their seats for life, or with hereditary titles of honor descendible according to the course of descent to be limited in the royal letters patent; while the latter was ordered to consist of such representatives as might be chosen by the Freeholders of Counties, and certain classes of the Inhabitants of Towns, to be formed, divided and limited according to a proclamation of the person administering the Government at such time as the said act should be carried into effect.

Constitution of U. C. not founded on the natural rights of man. The Constitution thus conferred upon the Colony by the Parliament of Great Britain, was not submitted in the first instance to the Colonists for their acceptance, nor is it at all bottomed upon the principle of the natural rights of the people. It was not yielded as a right to freemen but bestowed as a Royal favour upon Colonists; and to this day the animating prin-

ple of the British Constitution, by which the *First Report* will of the representatives of the people deliberately expressed becomes a supreme Law to which all who take office must submit, and by which the loss of public confidence insures the loss of office and power, is in Upper Canada unknown. Instead of admitting the solemn responsibility of public men; instead of political rights equally enjoyed by all, the people are limited to the principle of petitioning an Executive Council who may or may not hear their complaints, and a Governor over whose advisers they have no constitutional control; and interests are generated, opposed to them, and over which they can exercise no effective influence.

By the Constitutional Act, ministers of the Ecclesiastics gospel, and all priests and ecclesiastics, were prohibited from sitting in the House of Assembly, but might be called to the Legislative Assembly only. Clergymen were not, however, prevented from being appointed members of the Executive Government of the Colony.

The state of the representation in the House of Assembly was altered and amended by successive Parliaments; and the act of 1820, now in force, contains the following provisions:

Counties containing one thousand souls are to be represented by one member. When they contain four thousand inhabitants they are to send two members. Each Town in which the Quarter Sessions of the District are authorized to be holden is to send one member as soon as it shall contain one thousand souls; and whenever an University shall be established it is to be represented by one member. Counties containing less than one thousand souls to be annexed to the next adjoining County. Persons qualified to vote in towns shall not vote in the counties in which such towns are situated, upon the same freehold. This act did not authorize any reduction of the number of members then representing any county or counties.

In an act passed in 1824 the County of Carleton was divided into two counties, but it was provided that each County should only send one member to the House of Assembly whatever might be its population.

The inequality of the present state of the representation in the House of Assembly is so very great as to enable the minority to pass laws binding on the majority; and

Minority may pass laws to bind the majority.

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that laws are thus passed will be seen by reference to the Table of votes in the Appendix, Marked A.

By reference to the Tables in the appendix marked B

Population in 1830. and C, containing statements of the representation, population and assessment of the Province, it will be ascertained, that the population of the Colony last year was 211,558.

Representation, 1831. That the number of Members returned to serve in the present Parliament is fifty.

Proportions of the whole representation, represented to population. That Twenty-six of these Members, being a majority of a third of the whole population.—The remaining twenty-four members were returned by twelve Counties containing 141,503 souls, or more than two thirds of the whole population.

That two of the Counties containing between 33 and 34 thousand inhabitants return 3 Members; while three Towns and six Counties also containing between 33 and 34 thousand of a population return 14 Members.

That one County, including a population of 23,588 persons, returns *two* Members; while five Counties and three Towns, altogether containing only 22,960 inhabitants, return *eleven* Members.

Absurdities in the Constitutional Act. It has been justly observed, that "whatever is now established was once innovation," and surely the absurdity of a Law which gives to some two hundred persons inhabiting the Villages of Brockville and Niagara the exclusive right of electing two members to the Legislature because some of them pay ten pounds yearly rent and others possess freehold Lots, while it refuses to the Householders in the Country, or in other Villages similarly situated with the above, the same privilege, must be evident to every person who is not mentally blind.

Resolution against bribery and corruption in England, 1830. As a means of preserving the independence of the House of Assembly; in the tenth Parliament, a Resolution was agreed to without a division, declaring that "the various statutes in England, restraining the interference of certain persons and public officers, from interfering with elections, and excluding them from the representative body of the people, and for preserving elections free from treating, bribery, and corruption, are in force in this province, under the general adoption of the laws of England, so far as they are not repugnant to the constitutional act; and that this House will hereafter rigidly maintain and enforce the observance of those laws." Notwithstanding

"treaty with elections, and excluding them from the representative body of the people, and for preserving elections free from treating, bribery, and corruption, are in force in this province, under the general adoption of the laws of England, so far as they are not repugnant to the constitutional act; and that this House will hereafter rigidly maintain and enforce the observance of those laws."

This determination of the House, persons holding offices which would disqualify them from holding seats in the British Parliament, were returned at the last general election for several towns and counties; treating at elections and other undue means of influencing the minds of Electors were also in some places resorted to.

In the County of York the former representatives, who have been again returned, were taunted as being penurious, by a candidate holding office under the executive, on account of their refusal to imitate him in the practice of keeping open houses. The uncertainty attending upon the true meaning and interpretation of that Act by which English Law was made the rule of decision in Upper Canada, (in consequence of the contradictory explanations of Judges and Lawyers) is productive of many bad effects. To put the matter beyond dispute, it appears to your committee that it is expedient to adopt certain specific regulations and place them on the Statute Book, to regulate elections, and as guards against corruption and bribery. The provision in the present election law of Lower Canada, marked D. in the Appendix, appears to your committee to be deserving of the consideration of the House.

Members accepting Office after their Election by the people, ought to be sent back to their Constituents as in England.

In the appendix, marked E, there is a table containing the names of members of the House of Assembly holding offices of profit and emoluments, with a list of the offices they hold, and the tenure under which they are holden.

From that table, it appears that the four towns authorised to send members to the House of Assembly, to the representatives of which no wages are paid, are represented by the two crown officers, the sheriff of the Home District, and the postmaster of Brockville; that 1 attorney general, 1 solicitor general, 1 sheriff, 1 district court judge, 1 clerk of the peace, 1 inspector of licences, and two collectors of the customs, are members of the Assembly, holding at the same time their several offices during the pleasure of the executive; and that 1 district treasurer holding office under the district justices, 7 postmasters appointed during the pleasure of the deputy postmaster general at Quebec, three military officers on half pay or retired allow-

First Report.
The resolution
unavailing.

Consequences
of interferences
of officers
of government
at elections.

Lower Canada
Election Law.

Members accept-
ing offices of
profit (table of.)

Quality of town
members.

Lists of public
functionaries in
the House of
Assembly.

First Report. ances, and two county registrars of deeds and conveyances, are also representatives of the people in the present Parliament.

Weakness of the Assembly; vernment have the control of a very large revenue unchecked by the representative branch of the legislature; that its officers enjoy incomes out of all proportion with the means of the country to pay; that the judges have been made independent of the annual votes of the assembly by a bill passed during the present session, without their dependance on the executive having been in any degree lessened; that the executive appoints to very many influential and lucrative situations, and may at a breath deprive its officers of their places; that bishops, priests, judges, and all other public functionaries look chiefly to the government for retired allowances or pensions, and not to the House of Assembly; that those vast tracts of land, known as the crown and clergy reserves, are in the gift, or under the direction and management of the local government, and clergy corporation, without any effectual check being placed in the hands of the Assembly against favouritism; that the appointment to honorary distinctions in the militia, is in the gift of the lieutenant governor; that the direction of education is chiefly in the hands of the executive government and a clergy politically dependant thereon; and that the province bank is virtually under the same executive control, it becomes so much the more essential on the part of the people that the representation in their

Case of Mr. Justice Willis, cases of Judge Willis, Capt. Matthews, and Mr. &c.

George Rolph (among many others recorded on the journals of the provincial parliament) afford abundant proof of the great extent of the influence of the executive, and the comparative feebleness of the powers of the House of Assembly.

On extending the elective franchise. It appears to your committee, that the elective privilege ought to be enjoyed by that class who contribute towards the support of the government, and who have therefore a just right to a voice in the mode of applying what they pay; and to that other class who by education and their connexions in life are most likely to choose representatives of talent and integrity; but the act 31st George 3rd, puts it out of the power of the colonial legislature to extend the elective franchise to any householder in the counties, unless where

possessed of a freehold estate. In the opinion *First Report.* of your committee it is desirable that the rights of electors should be conferred on all leaseholders of houses, lands, or other real estate, who pay an annual rent of Ten Pounds and upwards.

The state of the Roads during some parts of the year, and the close attention to be paid to Agricultural pursuits at other seasons, render it expedient, either that the Elections should be held in one day in each Township in the province, or, that in large and populous Counties, two or three places for holding elections should be named in a statute, the elections to commence alternately at each of these places, to continue a certain specified time at each place, and a certain number of hours to elapse between the closing the poll at one station and opening it at another. It should be provided as in Lower Canada that the Election may close at either of these stations unless a request by at least three electors shall be made to the returning officer to the contrary. The place of election in every county should be named by statute: and no poll ought to be held in a tavern nor in any place to which every elector cannot have free and convenient access.

Election by ballot precludes the elector from every chance of promoting his own personal advantage at the expense of the community. The only interest he can hope to serve by the exercise of his franchise, is the interest of the people generally. For doing this his means are to elect that candidate who is likely to render most service to the public. Your committee recommend the vote by ballot as the most important in the whole list of popular safeguards against political corruption in a representative system.

The vote by ballot is used in certain cases in the British House of Commons; the sixteen noblemen who represent the Scottish peerage in the British Parliament are elected by ballot; the royal society of London and many other distinguished associations have on trial found the vote by ballot the least liable to objections of any, and have adopted it; the bank of U. Canada elects its directors and regulates its discounts by secret votes; France and the United States have very generally resorted to the ballot box in their elections of members to their several legislatures; and the principal towns and counties of the United Kingdom are petitioning parliament to pass

Manner and
places of hold-
ing elections.

The vote by
Ballot an im-
portant popu-
lar safeguard.

First Report. a law restoring the vote by ballot. This mode of voting annihilates in a great measure the corrupt influence often exercised by lawyers in extensive practice, merchants whose books are filled with charges against the country people, and government officers backed by the dispensers of those honors and emoluments which are ever in the gift of a colonial executive. Bribery would decrease under this mode of voting, for the briber could have no security, and the freeholder though a debtor could act without hope or fear. The sycophant would cease to profit by his subservience, and election expenses and open taverns be effectually curtailed. The new settler upon a hundred acres would be enabled to vote for or against the village trader with whom he dealt, according to his conscience, and without the fear of provoking a lawsuit from a disappointed creditor candidate. A freeholder owes his vote to his country, and ought not to be exposed to suffer injury for the maintenance of his integrity.

The wages paid to members for counties is ten shillings a day, with travelling expenses, but to members for towns no allowance whatever has been made. Bills have been sent up from the Assembly to the Council in two successive parliaments to authorise the payment of wages to town members, but the Council refuse to pass them. In the last House of Assembly, the bill to give wages to towns' members met with no opposition. Your committee are of opinion that it would tend to render the House of Assembly more free from unconstitutional influence if the constituents of members for towns were authorised to pay them wages. There are comparatively few inhabitants of the towns in this colony who can afford to leave their families and occupations for two or three months in each year for four successive years—hire clerks to manage their establishments in their absence—and bear the expense of each winter's residence in York while performing their duty in the Assembly besides travelling to and from it to their homes. The consequence is, that instead of an independent representation, towns send members who receive their incomes from the executive, such as sheriffs, postmasters, and the law officers of the crown; and the electors are thus deprived of a free choice. In France, although the choice of representatives is restricted to persons of a certain

Representatives for towns, should receive wages.

property, rich enough to defray their expenses in attending the legislative sittings, an indemnity has been given for their attendance.—In Nova Scotia, town members as well as county members receive compensation for their services; in the whole of the present United States, where the principle of a free representation is well understood, an indemnity is allowed by the constituent to him whom he delegates to the Legislature; in England it was the ancient practice to give members of parliament wages, and the people are petitioning for its renewal, although from the comparatively large number of men of great wealth and independence of sentiment it must be less necessary there than in a colony.

Your committee are of opinion, that the law authorizing certain villages to send each one member as soon as they severally contain one thousand souls ought either to be repealed or so modified as to include the township or tract of country next adjoining, in order that no town member might represent less than 4000 souls. When Lower Canada adopted our legislative principle of subdividing great counties and allowing one member to counties containing 1000 souls, and two representatives to counties containing 4000, she left out of the scheme our provision in favor of village members without wages.

The counties of Lincoln and York are divided, the former into four and the latter into two ridings. The 1st riding of Lincoln consists of the townships of Gainsboro', Capboro', Caistor, Clinton and Grimsby, with a population of 4470. The second riding consists of the townships of Louth, Grantham and Niagara, the population of which exclusive of the town of Niagara, is 4892. The third riding is composed of Stamford, Pelham and Thorold, with a population of 4204; and the 4th consists of Bertie, Crowland, Humberstone, Wainfleet and Willoughby, these townships containing 4848 souls.

The two ridings of the county of York are the West and East, the former consisting of the townships of Albion, Caledon, Chinguacousy, and the Gore of Toronto, with a population of a little over 3000, the latter containing the remainder of the shire, with upwards of 20,000 inhabitants. Had the last county election for York been by ridings, it certainly would not have had a tendency to remove the inequality of the representation, but would have increased it.

Village representation law ought to be modified or repealed.

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County of Lincoln.

With regard to the representation of Lincoln, instead of returning to elections by ridings, it would be better to adopt some uniform system throughout the colony, in which, of course, that county would be included. It would not tend to equalize the state of the representation, were the 2d riding to send one member for its 5,000 wealthy inhabitants, while the village of Niagara containing about 1,200 souls was also permitted to send its member. To give the five townships composing the 4th riding one member for its 4,848 inhabitants, while the four townships of which the county of Dundas consists continued to send two to represent a population of only 3,758, and having less assessed real estate than the 4th riding, would be no improvement on the present imperfect representation of the people.

Organization
of Legislative
Council,

The state of the Representation in the House of Assembly, as well as the whole of its proceedings, are deeply affected by the present organization of the Legislative Council. A great proportion of the members of that body consists of Executive and Judicial Officers of the Government, deriving their incomes principally from their offices held during the pleasure of the Executive, dignified Ecclesiastics receiving salaries or other compensation from the Crown, retired Judges enjoying pensions not granted for life by the Legislature but held during the will of the Executive, and Naval and Military Officers on half pay, the local Government at the same time being in all respects independent of the votes of the H. of Assembly. So long, therefore, as the present formation of a Legislative Council shall last, there can be but very faint hopes that those measures earnestly desired by the people and sanctioned by successive Houses of Assembly will become Laws. There is, too, a constant reference in the House of Assembly to the prospective opinions of a branch of the Legislature over the deliberations of which it is evident that the Executive Government exercises a powerful influence.

Judicial depen-
dence on the
Executive,

The representative branch of the legislature is and must be necessarily imperfect, so long as the supreme judges and interpreters of the laws shall continue dependant on the executive for the tenure of their official stations, and the continuance of their salaries. How can dependants on the holders of executive power be expected to protect the rights of the people when invaded by that power? Will it be said, that a judicial

a bar to the
prosperity of
the Province.

body whom the imperial administration can deprive of place, are fit to pass upon and judge of the constitutionality of laws passed in Great Britain affecting this Colony; or even of the true meaning of laws passed by the legislature of this Colony?

Or is it to be expected that while the chief judge of the colony both in criminal and civil law, continues to take an active part in the political affairs and differences of the Province as chairman of the legislative council, holding that and his judicial office during pleasure, that he will obtain that confidence in his impartiality in the exercise of his judicial functions, from the people of Upper Canada, which is so essential to the peace and tranquility of the community?

The effects of an unequal state of the representation of persons equally qualified and equally interested in obtaining good government and equal laws, throughout a population the majority of whom are freeholders, and the introduction into Your Honorable House of a number of persons more or less dependant upon the executive for the whole or a part of their salaries and incomes, are more particularly detailed in the appendix to this report. The manner in which gentlemen holding office, have voted on some important questions during the present session will be seen by reference to the table marked F. On consulting the table of assessed value of real estate, the inequality of the representation will be found to be nearly as great in regard to property as it is in regard to population. The counties of Kent and Essex, assessed only £124,577, send two members; while York county, assessed £322,085 is allowed but an equal number. Lanark, assessed £97,772, has only one representative; while Durham, assessed £65,912, has two, and Simcoe and Haldimand, neither of which is assessed the fourth part as much as Lanark have nevertheless twice its influence in the expenditure and imposition of the taxes. The town and county of York are represented by three members; and there are eleven members who have seats in the House from towns and counties the assessed value of property in which is not altogether equal to the assessed value of property in York county alone. The county of Halton, with assessed property value £211,133, returns only two members, while Kingston, Frontenac

Reference to appendix.

On the character and quality of the votes of public officers.

Inequality of the representation, with regard to property and direct taxation.

First Report. and Hastings, with less value, altogether, on the assessment rolls, are represented by five members.

Consequences
of the defective
constitution of
the Province.

The consequences of a defective constitution, in this Colony have been most injurious to its peace prosperity and welfare. With an unequal constitution of and partial representation of the people in your honorable house ; with a judiciary the members of which are dependant on the executive for their subsistence, and continuance in office ; with uncertainty and confusion in the laws, and judges deposed for a conscientious expression of their opinion concerning them ; with an unnecessarily expensive and very inefficient administration of justice in the several courts ; with an entire absence of all accountabili ty and responsibility to the country on the part of public officers ; with the mismanagement of the waste lands of the crown, and the misapplication of the public revenue, and of the funds set apart for education ; with continued neglect of the petitions of the people and of the remonstrances of successive Houses of Assembly addressed to successive administrations of the imperial government ; with the attempts made on the part of the clergy of the established church of England to obtain supremacy and political power and influence, these attempts being aided and encouraged by the executive government ; and with complete impunity secured to the provincial executive for its greatest abuses of power, under the name of a legislative council appointed by that executive ; with these features in the system of government which obtains in Upper Canada, how can the harmonious co-operation of the rulers and the ruled for the common good of the whole be expected ?

(W)

Your Committee perceive in the composition Disclosure of of the Legislative Council an almost insuperable barrier to any attempts that may be made on tamper with the Legislative the part of the present or any future House of Council by the Executive. to bring about a reformation in the state of the representation of the people ; and before concluding this report are anxious to draw the attention of Your Honorable House to the account of the influence of the executive government in the Legislative Council, given in evidence by the Honorable Thomas Clark and the Honorable William Dickson, members of that Honorable House, before a committee of the House of Assembly, appointed in 1828 to con-

sider and report on the assessment law, and al- *First Report.*
ready recorded on the journals of that year.

The important disclosures made by these hon.
gentlemen, as reported by the com. were as follow:

" In examining into the truth of the allegation contained in the petition, that the measures passed too rapidly through both houses, your committee became acquainted with facts of a most painful and alarming nature.—Testimony of Honourables Messrs. Clark and Dickson: From the testimony of the honorable William Dickson, a gentleman resident in the Province from its early date, and commanding that respect which is due to his high character and exalted station, we learn a fact most mortifying to the pride, and most humiliating to the independence of the Legislative Council.

" From the introduction of the bill to the day of its final passing, there was, according to the hon. Mr. Dickson, a majority against the measure. But, at the third reading, several members who were previously opposed to the bill, and who held offices under the local government, suddenly turned in favour of the measure, and others reluctantly absented themselves under pretence of sickness. And this change, the hon. Mr. Dickson is satisfied, arose from intimidation by the local government, who seemed determined to carry the measure at any sacrifice. He states, that it was most painfully manifest from their countenances and demeanour, that the change was not from conviction but from coercion. The business of the Legislative Council was suspended for two hours, for a meeting of the executive council; and he avers his belief that at that council, the members of the Legislative Council, holding offices, were constrained, at the peril of their situations, to vote for the measure, which they had for a week before decidedly opposed. Upon those members returning that day to their legislative duties, there was a change of voting; and one of those who absented themselves on pretence of sickness, was, to the knowledge of the honorable William Dickson, able to attend. On the day the final vote was taken, and about ten minutes before it was taken, a message was delivered to the honorable James Baby, that Major Hillier, private secretary to His Excellency Sir P. Maitland, wished to speak to him. Upon the return of that honorable member, from the interview, to the Legislative Council, he was evidently much confused and agitated. Until that moment he had been opposed to the bill: and upon being spoken to by the honorable William Dickson after his return, he seemed agitated and confused, and said he must vote for the bill. After the passing of the bill, and after leaving the Legislative Council, the honorable member put his hand upon his heart, and with reference to his change of conduct on the measure, said something about his children, expressive of regret at the necessity which drove him to the abandonment of the course he had pursued. It is further stated that the late Chief Justice Powell, then Speaker of the Legislative Council, evidently acted on that day under the same embarrassment and coercion, observing he had received a new light within the last ten minutes. The Hon. J. H. Dunn absented himself. The bill was of course carried, and the Honorable W. Dickson and the Honorable Thomas Clark protested against it. The Honorable Thomas Clark, as will be seen in his evidence, states that he also was in the legislative council during the discussion and passing of the bill making permanent the tax complained of, and that he has good reason to believe, that the bill would not

* See Appendix to Journals House of Assembly, U. C. 1828. Report on Assessment Law.

First Report. “ have passed had it not been for the influence exposed in the evidence of the Hon. William Dickson. The same honorable member expressed his firm belief that a similar unconstitutional influence has been exercised over members of his honorable house. He states, that the Hon. J. H. Dunn, with himself and others, protested against the last School Act, but his name has been since erased, and the erasure appears on the Journals. He has also reason to believe that the late Chief Justice Powell was unduly influenced upon a similar occasion.”

Your Committee have reason to believe, that the influence of the Executive Government in the Legislative Council, has not been lessened by any changes which have taken place in the composition of that body since the date of the transactions to which the testimony of Messrs. Dickson and Clark has reference.

W. L. MACKENZIE,
Chairman.

*Committee Room, Commons' House }
of Assembly, 16th March, 1831. }*

APPENDIX.

A

Appendix, A.

A Table of Votes shewing some of the consequences that arise out of the inequality in the representation for Upper Canada in the Provincial Legislature.

Vote on Bank enquiry. 1. In January last, Mr. Mackenzie, pursuant to notice, moved that the House of Assembly do require certain detailed information, on the Oath of the President and Cashier of the Bank of Upper Canada, sufficient in his opinion to enable the Legislature to form a more correct estimate of the condition of that institution. Forty Members were present, of whom 24 voted against the motion and only 15 for it. Leaving out of this calculation the votes from these places the members of which were equally divided on the question, it will be found that the representatives of a population between 90 and 100,000 souls supported the enquiry, while the representatives of about an equal portion of the population opposed it. The difference on the most minute calculation will not exceed 4000, or less than a fifteenth of the population; but the difference in the House is 15 against 24 or 9 of a majority.

Vote on bill to amend the primogeniture laws. 2. In the same month, Mr. Bidwell's Bill providing for the equal division among their children of the real estate of persons who might die without making any will, was thrown out by the Speaker's casting vote, 41 members being present. It had passed in former parliaments by large majorities, and had the country been equally represented the result would have probably been different at the last division.

The representatives for Oxford, Wentworth, and Hastings were equally divided in opinion. Norfolk, Kent, Lennox and Addington, Leeds, Lincoln, Frontenac, Dundas, Northumberland, Prince Edward, and York Counties, and the town of Brockville, with a population of 102,000 souls, supported the bill; while the towns of York, Kingston, and Niagara, and the counties of Durham, Halton, Middlesex, Essex, Glengarry, Grenville, Carleton, Lanark, and Stormont, with a population of only 72,000 opposed its passage. Thus, with a clear majority of 30,000

in its favour, the unequal state of the representation has caused a record to be made upon the Journals of Parliament, that the measure meets not the approbation of the people of Upper Canada.

3. The Bill to amend the Law of Libel, which passed the last Parliament by an unanimous vote, providing that a Defendant under the plea of Not Guilty may produce evidence that the alleged Libel was the truth and published from good motives and for justifiable purposes; and that if proof be given to the full satisfaction of the Jury they may return a verdict of acquittal; was thrown out during the present Session by the Speaker's casting vote. In favour of the passage of the Bill, voted the Counties of York, Lennox & Addington, Hastings, Durham, Northumberland, Lincoln, Leeds, Frontenac, Dundas, Prince Edward, and Carleton, containing a population of 110,000.

The towns of York, Niagara and Kingston; and the Counties of Kent, Haldimand, Stormont, Halton, Essex, Glengarry, Oxford, Simcoe, Wentworth, Grenville, Prescott & Russell, and Lanark, with a population of 85,000, voted to destroy the Bill. The majority in its favour out of doors was 25,000; notwithstanding which it was lost by the Speaker's casting vote.

4. The case of the Welland Canal Loan demonstrates that the people of Upper Canada may be forced into Debt without their consent, by a majority in the Assembly representing a minority of the population of the Colony. On Wednesday, February 23rd, on the question for reading land Canal the Welland Canal £50,000 Loan Bill a second time three months hence, every Member of the House being in his seat, 25 Members voted against the motion and 24 were for throwing out the Bill. Setting aside the votes of the Counties of Lincoln, York, Norfolk, Grenville, Stormont, Halton, and Hastings, the Members from which were equally divided in opinion regarding the measure before the House, we have in favour of the Loan, the Towns of York, Niagara, Kingston and Brockville, and the Counties of Kent, Essex, Middlesex, Wentworth, Haldimand, Oxford, Durham and Simcoe, containing a population of 52,000. Opposed to the Loan, were the Counties of Lanark, Carleton, Prescott & Russell, Lennox & Addington, Leeds, Northumberland, Dundas, Prince Edward, Frontenac, and Glengarry, numbering by the last census 79,000 souls. With a majority of 27,000 (the whole Province, inclusive) voting against the Loan by their representatives, the measure was nevertheless carried in both branches of the Legislature, and in the teeth of public opinion, thus constitutionally expressed, will, in all probability, become a Law.

DISTRICTS.	COUNTIES & TOWNS.	REPRESENTATION IN ASSEMBLY, 1831.	Population 1830.	Assess'nt 1830.
HOME,.....	York (County,)	Jesse Ketchum, W. L. Mackenzie,	23,538	£322,086
	York (Town,)	W. B. Jarvis,.....	2,860	65,704
	Simcoe (County,)	W. B. Robinson,.....	2,117	22,578
	2 Counties and 1 Town, . . .	4 Members,.....	28,565	410,367
NEWCASTLE,	Durham (County,)	John Brown, George S. Boulton,	5,416	65,913
	Northumberland (County,) . . .	James Lyons, Archibald Macdonald,	9,435	128,077
	2 Counties,	4 Members,.....	14,851	193,990
MIDLAND,...	Frontenac (County,)	Hugh C. Thomson, John Campbell,	5,284	127,498
	Kingston (Town,)	C. A. Hagerman,.....	3,635	
	Lennox & Addington, (Incorporated Counties.) ..	Peter Perry, Marshall S. Bidwell,	9,658	145,546
	Prince Edward (County,) ..	John Roblin, Asa Werden,	9,794	150,986
	Hastings (County,)	J. H. Samson, Reuben White,	5,819	81,476
	4 Counties & 1 Town,	9 Members,.....	34,190	506,491
JOHNSTOWN,.	Leeds (County,)	William Buell, junior, M. M. Howard,	11,290	
	Brockville (T'own,)	Henry Jones,.....	1,130	250,964
	Grenville (County,)	R. D. Fraser, Edward Jessup,	7,997	
	2 Counties & 1 Town,	5 Members,.....	20,417	250,964
OTTAWA,....	Prescott & Russel, incorporated Counties,	Donald Macdonald,.....	3,833	
	1 County,	1 Member,	3,833	no return.
BATHURST,...	Lanark (County,)	William Morris,.....	9,736	97,773
	Carleton (County,)	John Bower Lewis,.....	6,269	56,579
	2 Counties,	2 Member s,.....	16,005	154,352
EASTERN,...	Stormont (County,)	Archibald McLean, Philip Vankoughnett,	6,433	
	Glengarry (County,)	Alexander Fraser, Alexander McMartin,	9,564	
	Dundas (County,)	Peter Shaver, John Cook,	3,758	
	3 Counties,	6 Members,.....	19,755	Return incomplete.
	Halton (County,)	William Chisholm, James Crooks,	13,886	211,133
GORE,.....	Wentworth (County,)	John Willson, Allan McNab,	7,059	107,605
	2 Counties,	4 Members,.....	20,954	318,733
	Lincoln (County,)	Robert Randal, B. C. Beardsley,	18,414	303,824
NIAGARA,...	Niagara (Town,)	John Clark, William Crooks,	1,148	32,188
	Haldimand (County,)	H. J. Boulton,.....	1,354	18,278
	2 Counties & 1 Town,	John Warren,.....	20,916	354,290
	Middlesex (County)	6 Members,.....		
LONDON,....	Oxford (County,)	Mahlon Burwell, Roswell Mount,	11,882	154,936
	Norfolk (County,)	Charles Ingorsol, Charles Duncombe,	5,725	80,072
	3 Counties,	Duncan McCall, William Willson,	5,196	81,975
	Essex (County,)	6 Members.....	22,803	317,033
WESTERN, ..	Kent (County,)	William Elliott, J. B. Macon,	5,397	124,577
	2 Counties,	William Berezy,.....	3,891	
		3 Members,.....	9,258	124,577

*A Tabular Statement shewing the inequality of
the representation in the House of Assembly.*

1. The towns of York, Brockville, Kingston, and Niagara, and the counties of Simeoe, Durham, Frontenac, Hastings, Stormont, Dundas, Haldimand, Oxford, Norfolk, Essex, Wentworth, Prescott & Russell, and Kent, contain 70,055 souls, and are represented by 26 members. Proportions of the representation to the population in U. C. 1831.

The counties of Middlesex, Lincoln, Halton, York, Nor-thumberland, Prince Edward, Lennox & Addington, Leeds, Grenville, Glengarry, Carleton, and Lanark, contain 141,-503 inhabitants and are represented by 24 members.

2. The towns of York, Niagara, and Brockville, and the counties of Durham, Frontenac, Simcoe, Dundas, Norfolk, and Essex, contain 33,600 inhabitants who are represented by 14 members, while the counties of York and Lanark (exclusive of the Town of York) with a population of 33,324 souls are only permitted to send 3 members to the Legislature.

3. The county of York, 23,538, is represented by two members; the counties of Essex, Norfolk, Haldimand, Dundas and Simcoe, and the towns of Brockville, York, and Niagara, 22,960, by eleven members. These eleven represent a much smaller number of the people of Upper Canada than the other two.

The Home District sends four members. The Newcastle District (with half the population) sends also four members. The Bathurst District, with 16,000 souls, sends two members, whilst the Western and Ottawa Districts containing less than 14,000 inhabitants are represented by four members; and at the next general election will send six representatives to the Assembly, unless the existing law should be sooner altered.

5. The following are the average proportions between the population and representation of the several Districts.

Home,	1	Member for every	7,000	inhabitants.
Niagara,	1	do.	3,500	do.
Western,.....	1	do.	3,000	do.
Bathurst,.....	1	do.	2,000	do.
London,.....	1	do.	3,750	do.
Eastern,.....	1	do.	3,250	do.
Gore,	1	do.	5,250	do.
Newcastle,....	1	do.	3,750	do.
Midland,.....	1	do.	3,750	do.
Johnstown,....	1	do.	4,000	do.
Ottawa,	1	do.	5,750	do.

Unequal as is the above distribution of the representation, it is rendered much more so by the far greater inequality of the division of the representation within the several Districts.

6. Another view of the inequality of the representation may be had by shewing in figures the number of representatives for each town or county at present, together with the population represented by each member, it being kept in mind that the inequality, under the *present law*, will necessarily be greater at every new election, the representation from villages and thinly populated counties will be proportionally increased, and the influence of wealthy and populous shires lessened.

23,538 inhabitants	send	2	members.
13,886	do.	2	do.
11,882	do.	2	do.
11,290	do.	2	do.
9,794	do.	2	do.
9,658	do.	2	do.
9,534	do.	2	do.
9,435	do.	2	do.
7,997	do.	2	do.

Appendix, C.
Proportions of
the representa-
tion to the po-
pulation in U.
C: 1831.

7,059	inhabitants	send	2	member :
6,433	do.	do.	2	do.
5,819	do.	do.	2	do.
5,725	do.	do.	2	do.
5,416	do.	do.	2	do.
5,397	do.	do.	2	do.
5,284	do.	do.	2	do.
5,196	do.	do.	2	do.
3,753	do.	do.	2	do.
18,414	do.	do.	4	do.
9,736	do.	do.	1	do.
6,269	do.	do.	1	do.
3,891	do.	do.	1	do.
3,833	do.	do.	1	do.
3,635	do.	do.	1	do.
2,360	do.	do.	1	do.
1,351	do.	do.	1	do.
1,148	do.	do.	1	do.
1,130	do.	do.	1	do.

And by the present law every village in which the Quarter Sessions are held for the District is entitled to be represented by 1 member, as soon as it shall possess 1000 souls, while a county although it were to contain 30,000 inhabitants could only send 2 representatives.

D

Appendix, D. Extracts from An Act of the Parliament of Lower Canada, passed 22nd March, 1825, relative to Elections of Members to serve in the House of Assembly.

Lower Canada Election Law. PROVISIONS AGAINST CORRUPTION AND VIOLENCE. Every person before voting to take, if required, besides the oaths as to his name, residence and qualification, the oath against bribery and corruption, viz: "That you have not received or had, by yourself or by any other person whomsoever in trust for you, or for your own use and benefit, directly or indirectly, any sum or sums of money, office, employment, gift or reward, or any promise or security for any sum or sums of money, office, employment, gift or reward, in order to give your vote at this Election." "So help you God."

The following offences are punishable by disqualification of sitting and voting in the House of Assembly, or being re-elected in the same Parliament, on the facts being proved to the satisfaction of the House.

1° Employing any means of corruption, by himself, or others in his interest and favor, before or during any Election, to obtain votes, or to keep back votes, by using threats of losing any salary or advantages, or making any promise of any gift, advantage or reward.

2° By himself or by means of others in his interest and favor, directly or indirectly, at any time within one month before or during the Election, making a present of or allowing to an elector any money or promise of money or reward.

3° By himself or by means of others directly or indirectly, within the same time at his cost or charge opening or supporting, or causing to be opened or supported, any use of public entertainment, within the county in which an election is held.

Offences for which any person whomsoever, is punishable by fine of ten and twenty pounds for every offence, on conviction in a Court of Justice, and also of disqualification of sitting and voting during the same Parliament.

By himself or any other person whomsoever on his behalf or account,

1° Promising or engaging to give any sum or sums of money, or other valuable consideration, with the intent of aiding or procuring any persons to be elected or returned.

20 Corrupting or procuring any person or persons to give, or forbear to give his vote, by any gift or reward, or promise, agreement or security thereof, whether as a compensation for loss of time, or for expenses in going to vote, for soliciting votes, or on any pretence whatsoever. Conveyances made to qualify any person to vote to be held good, notwithstanding any condition or agreement to defeat or reconvey the same, and the property to vest in the person to whom it has been conveyed. Returning Officers taking any part in an Election in favour of any Candidate, to incur a penalty of Twenty-five pounds.

*Appendix, D.
Lower Canada
Election Law.*

Preserving order. Every person who shall at any Election, wear any distinguishing mark of any candidate, or in any way, use violence or menace, to impede or disturb the election, or prevent or endeavour to prevent any elector from freely giving his vote, to incur a penalty of ten pounds, for every offence. All persons present are bound to obey and assist the returning officer in keeping order, and any person committing any violence or being armed with offensive weapons, or carrying flags, or distinctive marks of any candidate, or disturbing or threatening to disturb the election, or preventing the electors from coming to vote, may be committed to prison, on view, by an order in writing of the returning officer for twenty-four hours: each disobedience on the part of any officer of militia, peace officer or gaoler, to such order of the returning officer is punishable by a fine of five pounds.

The Poll Clerk in case of the death of a Returning Officer may act in his stead.

E

A Table of Offices of Profit and Emolument held by members of the House of Assembly of Upper Canada.

Appendix, E.

ATTORNEY GENERAL.

[Office held during the pleasure of the Executive.]

Henry John Boulton, Member for Niagara.

Table of offices held by members of the H. of A.

SOLICITOR GENERAL.

[Office held during the pleasure of the Executive.]

Christopher A. Hagerman, Member for Kingston.

HIGH SHERIFF, HOME DISTRICT.

[Office held during the pleasure of the Executive.]

William B. Jarvis, Member for York.

JUDGE OF DISTRICT COURT, W. D.

[Office held during the pleasure of the Executive.]

William Berczy, Member for Kent.

CLERK OF THE PEACE, EASTERN DISTRICT.

[Office held during the pleasure of the Executive.]

Archibald McLean, Speaker, Member for Stormont.

REGISTRARS.

[Office held during good behaviour.]

Eastern District, Archibald McLean, Speaker, &c.

Co. Northumberland, George S. Boulton, Member for Durham.

POSTMASTERS.

[Office held during the pleasure of the Postmaster General, Quebec.]

Brockville, Post Office, Henry Jones, Member for Brockville.

Martin Town, do. Alexander McMartin, Member for Glengarry.

Nelson, do. William Chisholm, Member for Halton,

<i>Appendix, E.</i>	Port Talbot, Post Office, Mahlon Burwell, Member for Middlesex.
Table of offices held by members of the H. Oxford, of A.	Newmarket, do. William B. Robinson, Member for Simcoe.
Delaware,	do. Charles Ingersoll, Member for Oxford.
	Roswell Mount, Member for Middlesex.

MILITARY OFFICERS ON HALF PAY.

Archibald McLean, Speaker, Captain Incorporated Militia.
Alexander Fraser, Canadian Fencibles, Member for Glengarry.
Alan N. McNab, Lieutenant Royal African Corps, Member for Wentworth.

DISTRICT TREASURER, OTTAWA.

[Office held during the pleasure of the Justices.]

Donald Macdonald, Member for the Ottawa.

INSPECTOR OF SHOP, STILL, AND TAVERN LICENCES.

[Office held during the pleasure of the Executive.]

Gore District, John Willson, Member for Wentworth.

COLLECTORS OF THE CUSTOMS.

[Office held during the pleasure of the Executive.]

Port Talbot, Mahlon Burwell, Member for Middlesex.
Fort Erie, John Warren, Member for Haldimand.

Appendix, F.

F.

A table of votes of persons holding situations of profit and emolument under the government, shewing the effects produced to the country on some important questions, in which the executive were interested.

1. PERMANENT SALARY BILL.

Votes of officers of government in H. of A. In favor of voting £7,200 a year out of the duties and taxes raised upon the people, to certain judges and officers for ever, voted 6 postmasters, 1 sheriff, 2 crown officers, 1 tavern & shop licence inspector, 3 officers on half pay, 2 collectors of customs, 1 district judge and 1 county registrar, who receive, together, upwards of £3950 yearly of the public money.

Against this permanent vote, only one officer of the government recorded his name, the district treasurer of the Ottawa, who receives yearly under £50 of the public money.

2. PRIMOGENITURE BILL.

In favour of this bill, voted 3 officers of government, who together, receive about £300 a year from the public.

Against it, voted 12 members holding public offices, on half pay, or having pensions, in all, together, annually receiving about £4000 a year from the public.

3. BANK ENQUIRY.

For Mr. Mackenzie's motion for a full enquiry into the state of the bank of Upper Canada, previous to the passage of a bill to double its capital, voted 1 public functionary, receiving under £50 a year.

Against the motion, voted 13 public functionaries, receiving, together, annually, £4000 nearly out of the public purse.

4. LIBEL LAW AMENDMENT BILL.

In its favour voted 1 officer of the government, receiving annually £50 in fees from the country.

Against it were given the suffrages of 15 officers of the government, receiving, together, annually, in fees salaries and other emoluments, upwards of £4000.

5. VOTING BY BALLOT.

In favor of the principle of voting by ballot, on the amendment proposed on the 18th February last, to the Kingston Town Council Bill, not one member holding a public situation gave a vote.

Appendix, F.

Against that principle voted 17 public functionaries, nearly all of whom hold office "during pleasure," and receive, together, between £4000 and £5000 a year of public money.

6. WELLAND CANAL £50,000 LOAN.

This was a government measure; a measure in which the executive was known to have taken a deep interest.

In its favour voted 16 members holding office under government, or in the receipt of half pay as military officers; in all receiving yearly from the public about £4,500.

Against the loan voted 1 officer on half pay and 2 members holding public situations, who, together, receive about £110 a year of public money.

7. REPORT ON APPOINTMENT OF THE CHAPLAIN AND OTHER OFFICERS OF THE HOUSE OF ASSEMBLY.

In favour of the principle of the report, which denies that the church of England is the established church of Upper Canada, and asserts the right of the House to appoint its chaplain and other officers, and to dismiss them at its discretion, voted five members holding offices of profit under government, the annual income from which, taken together, is about £130.

Against the adoption of the report, voted 10 members holding offices of profit under government, the annual income from which, taken together, is about £3,900.

Note.—In stating the amount of the emoluments of those officers of the government who voted in the 7 cases already mentioned their wages as representatives of the people is not included.

FINIS.

